



20 AUG 1991

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street  
San Francisco, CA 94105

SFUND RECORDS CTR

SDMS # 65768

A R0061

CERTIFIED MAIL: P 678 973 267  
RETURN RECEIPT REQUESTED

Dick Randall  
President  
Lyon Communities Inc.  
1631 North First St., Suite 100  
San Jose, CA 95112

Re: EPA Order No. 89-09, as amended, regarding the Asbestos  
abatement at 4599 Manthey Road, French Camp, California

Dear Mr. Randall:

This letter serves as written confirmation of certain discussions between representatives of the U.S. Environmental Protection Agency (EPA) and Lyon Communities Inc. and its contractor, Thompson-Hysell Inc.

On May 29, 1991, EPA On-Scene Coordinator Brad Shipley was informed by Tom Owens of Thompson-Hysell Inc. that another delay in the final encapsulation of the asbestos at the above-referenced site was expected due to problems with subcontractor negotiations. On May 31, 1991, at Lyon Communities' request, Mr. Shipley attended a pre-bid meeting with Thompson-Hysell and two subcontractor representatives to assist with clarification of issues pertaining to the placement of the asphalt "park & ride" cover.

As discussed at the May 31 meeting, all movements of asbestos material within and onto the site must comply with applicable law and regulations. The contractor selected to construct the cover must have the expertise required for safely and legally implementing the chosen remedy.

On June 20, 1991, Tom Owens again requested to meet with Mr. Shipley to discuss additional problems with subcontractor negotiations. The meeting was conducted on June 21, 1991. At the meeting, solutions that might, if implemented properly, comply with the EPA Order cited above (the "Order") were discussed.

Mr. Shipley stated at the meeting that the interim six-inch compacted nonasbestos-containing cover that was constructed in July 1989 does not comply with 40 C.F.R. §61.153(a) because the vegetation portion of the cover was not maintained in the sense intended by the regulations. Mr. Shipley also indicated that increasing the thickness of the interim cover to a minimum of 24

Lyon Communities, Inc.

inches would fulfill the thickness requirement listed in the above-referenced regulation. However, this remedy would be difficult to maintain due to rodent activity. Poisoning the rodents has not proven effective.

An alternative approach suggested by Mr. Shipley would be the construction of a park, with maintained vegetation, such as the pavilion area at Weston Ranch. This would mitigate the threat of asbestos migration, be a long-term solution, benefit the community, improve aesthetics on the approach to Weston Ranch and be less expensive than the asphalt parking lot. However, it would require a commitment for maintenance of the vegetation and integrity of the cover.

Application of a petroleum-based or resinous soil sealant is considered an interim solution because reapplication would be required every six months. This method was utilized in May 1988. It could be accepted as a permanent solution only in conjunction with a satisfactory and enforceable maintenance commitment.

As discussed at the June 24, 1991 and another meeting held at EPA on July 11, 1991, EPA understands it is Lyon Communities' intent to implement the 24-inch cover option. To permit Lyon Communities to sample for off-site contamination and move any soil containing such contamination on-site, an extension is granted as set forth in the enclosed third amendment to Order 89-09.

To assure that no asbestos exposure occurs, the area must be adequately wetted to prevent any visible dust emissions during construction activities.

As required by the Order, Lyon Communities must notify EPA of each action taken in compliance with the Order, including submission to EPA of off-site sampling results and the final site maintenance plan. Development plans for the site are subject to required notifications to and approval by the City of Stockton and any state or local agency that has jurisdiction.

The technical quality of the work by Thompson-Hysell to date appears to be acceptable. However, since the integrity of the interim soil cap is deteriorating, no further delay will be tolerated. EPA has previously required that action be taken to maintain the interim cap and vegetation cover to prevent any further release or migration of asbestos from the site. This concern has been documented on more than one occasion in previous correspondence. If site construction activities are not complete as set forth in the amended Order, EPA will re-evaluate its options to enforce the terms of the Order 89-09 or assume management of the project and seek cost reimbursement, including the assessment of penalties in either case.

Lyon Communities, Inc.

Please direct any technical questions about the project to Brad Shipley at 415-744-2287 and any legal questions to Roger Klein at 415-744-1312.

Sincerely,



Jeff Zellikson  
Director

Hazardous Waste Management Division

cc: Tom Owens, Thompson-Hysell  
Paul Sensibaugh, City of Stockton  
Georgia Knutson California Department of Transportation  
Donnal Heran, San Joaquin County Health Department  
Greg Ratliff, California Department of Health Services

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

In the matter of )

Manthey Road Property )  
4599 Manthey Road )  
French Camp, California )

Lyon Communities, Inc., )  
Respondent )

Third  
Amendment to  
Order 89-09

Proceeding under Section 106 of the )  
Comprehensive Environmental Response, )  
Compensation and Liability Act of 1980, )  
as Amended )

Order No. 89-90, as amended on July 19, 1989 and March 14, 1991, is hereby further amended as follows:

Section V.E.2 shall read as follows in its entirety:

"2. Within one hundred and twenty (120) days of Respondent's receipt of this Second Amendment, Respondent shall: (a) file an executed deed restriction with respect to the site in accordance with California Health and Safety Code §25230(a)(1), and (b) prepare a written instrument as described in California Health and Safety Code §25230(a)(2). Such written instrument shall accompany all purchase, lease or rental agreements relating to the site. The deed restriction and written instrument shall be submitted to EPA for review before their filing or use."

A new Section V.E.3 shall be added to the Order and shall read as follows in its entirety:

"3. On or before September 18, 1991, Respondent shall commence construction of the final cap. On or before October 18, 1991, Respondent shall: (a) determine whether any off-site asbestos contamination exists, (b) transport all such off-site contamination to the Site or to a permissible off-site location, and (c) complete construction of the final cap, which shall cover any off-site contamination moved on to the site."

Order 89-09, as amended on July 19, 1989 and March 14, 1991, is not changed in any respect except as set forth in this third amendment.

IT IS SO ORDERED on this 17 day of 8, 1991.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By: Jeff Zelikson

Jeff Zelikson  
Director, Hazardous Waste Management Division  
Region IX

Contacts

Brad Shipley  
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415-744-2287

Roger Klein  
Office of Regional Counsel RC-3-2  
U.S. Environmental Protection Agency  
75 Hawthorne St.  
San Francisco, CA 94105  
415-744-1312

# ROUTING AND TRANSMITTAL SLIP

8.20.91

TO: (Name, office symbol, room number, building, Agency/Post)	Initials	Date
1. Brad Shipley		
2.		
3.		
4.		
5.		

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

## REMARKS

Copies of Amended Order  
& Letter for French Camp.

FOR YOUR FILES

sent - 8.20.91

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)	Room No.—Bldg.
Brent Maier	11-8-3
	Phone No.
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5041-102

★ U.S. GPO: 1990 — 262-080

OPTIONAL FORM 41 (Rev. 7-76)  
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FPMR (41 CFR) 101-11.206